

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**BRANCH BANKING & TRUST CO.,
SUCCESSOR IN INTEREST TO
COLONIAL BANK, BY ACQUISITION
OF ASSETS FROM THE FDIC AS
RECEIVER FOR COLONIAL BANK,**

Plaintiff,

V.

WILLIAM K. WELLS,
Defendant.

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**Civil Action No. 3:10-cv-2238-L**

**PLAINTIFF'S MOTION FOR LEAVE  
TO FILE UNTIMELY RESPONSE TO THE COURT'S  
JANUARY 17, 2013 ORDER [ECF DOCUMENT NO. 33]**

COMES NOW, Plaintiff Branch Banking & Trust Co., successor in interest to Colonial Bank, by acquisition of assets from the FDIC as Receiver for Colonial Bank (hereafter “Plaintiff” or “the Bank”), and files this its Motion for Leave to File Untimely Response to the Court’s January 17, 2013 Order [ECF Document No. 33] (the “Motion”). In support of their Motion, Plaintiff files simultaneously herewith their Brief in Support of its Motion for Leave to File Untimely Response to the Court’s January 17, 2013 Order [ECF Document No. 33], which is incorporated herein by reference.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that the Court grant Plaintiff's Motion for Leave to File Untimely Response to the Court's January 17, 2013 Order [ECF Document No. 33], and grant Plaintiff leave to file its Response to the Court's January 17, 2013 Order [ECF Document No. 33], which is being filed contemporaneously herewith and is incorporated by reference, and grant such other and further relief, both in law and in equity, to which Plaintiff is justly entitled.

Respectfully submitted,

By: /s/ David M. Pruessner

**DAVID M. PRUESSNER**

Texas Bar No. 16364500

dpruessner@higierallen.com

**ADRIAN L. GUERRA-PAZ**

Texas Bar No. 24045992

aguerra-paz@higierallen.com

**HIGIER, ALLEN & LAUTIN, PC**

5057 Keller Springs Road, Suite 600

Addison, Texas 75001

(972) 716-1888

(972) 716-1899 (Fax)

ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF CONFERENCE**

The undersigned counsel for movant personally conferred with counsel for Defendant on February 1, 2013, and he indicated that Defendant is opposed to the relief requested herein.

/s/ Adrian L. Guerra-Paz

**ADRIAN L. GUERRA-PAZ**

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 1<sup>st</sup> day of February, 2013, a true and correct copy of the foregoing document was delivered to the following counsel via ECF notification:

Bruce A. Alford  
Alford & Muncey, PLLC  
Campbell Center, Tower II  
8150 N. Central Expressway, Suite 700  
Dallas, Texas 75206

/s/ David M. Pruessner

**DAVID M. PRUESSNER**